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2009 JUL -8 P 1:14

July 6, 2009

By E-mail and U.S. Mail

John Robertus  
 Executive Officer  
 California Regional Water Quality Control Board, San Diego Region  
 9174 Sky Park Court, Suite 100  
 San Diego, CA 92123-4340

**Subject: Tentative Order No. R9-2009-0002 NPDES No. CAS0108740**

Dear Mr. Robertus:

At the July 2, 2009 public hearing, one of your board members requested clarification regarding the proposed Municipal Action Level (MAL) for nickel and the assertion made in the presentation by Richard Boon, County of Orange, that it was more stringent than the Basin Plan objective (See Attachment 1 – *Presentation Slide*). Mr. Boon was not present at this time to clarify the data and, in his absence, your staff opined incorrectly that Mr. Boon had used a Maximum Contaminant Level (MCL) rather than a Basin Plan objective and that the MAL was not more stringent than the Basin Plan

The comparison of the proposed MAL for nickel (26ug/l) with the Basin Plan objective for nickel was first presented in our comment letter of May 15 on the March 13, 2009, version of the Tentative Order. For the nickel objective, the Basin Plan incorporates the California Toxics Rule (CTR) by reference. CTR establishes both acute and chronic objectives. Since the MAL appeared to be an instantaneous value, the comparison was made to the California Toxic Rule acute criterion. The published value (see Attachment 1 – p. 31712 *Federal Register / Vol. 65, No. 97 / Thursday, May 18, 2000 / Rules and Regulations*) for this criterion, which assumes 100mg/l as CaCO<sub>3</sub> hardness, is 470ug/l. The MAL is therefore significantly more stringent than this Basin Plan objective.

Constituent	CTR Criterion – Maximum Concentration	Proposed MAL
Nickel	470ug/l	26ug/l

It is requested that this clarification be provided to your Board members to eliminate any confusion on the response to the question.

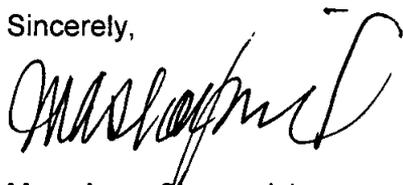
Thank you for your attention to our comments. Please contact Richard Boon at (714) 955-0670

~~CONFIDENTIAL~~

John H. Robertus  
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with any questions on this matter.

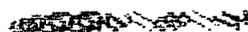
Sincerely,

A handwritten signature in black ink, appearing to read "Mary Anne Skorpanich". The signature is fluid and cursive, with a large initial "M" and "S".

Mary Anne Skorpanich  
Director, OC Watersheds Program

Attachment 1: *Presentation Slide*  
Attachment 2: *p. 31712 Federal Regulations*

cc: City Permittees



<b>Constituent</b>	<b>MAL (ppb)</b>	<b>Basin Plan (ppb)</b>
Nickel	26.34	469

<b>Waterbody</b>	<b>% &gt; MAL</b>	<b>% &gt; BP</b>
Aliso Creek	58.5	0
Prima Deshecha	100	2.1
Segunda Deshecha	93.4	0



A		B Freshwater		C Saltwater		D Human Health (10 <sup>-6</sup> risk for carcinogens) For consumption of:	
# Compound	CAS Number	Criterion Maximum Conc. <sup>d</sup> B1	Criterion Continuous Conc. <sup>d</sup> B2	Criterion Maximum Conc. <sup>d</sup> C1	Criterion Continuous Conc. <sup>d</sup> C2	Water & Organisms ( $\mu$ g/L) D1	Organisms Only ( $\mu$ g/L) D2
1. Antimony	7440360					14 a,s	4300 a,t
2. Arsenic <sup>b</sup>	7440382	340 i,m,w	150 i,m,w	69 i,m	36 i,m		
3. Beryllium	7440417					n	n
4. Cadmium <sup>b</sup>	7440439	4.3 e,i,m,w,x	2.2 e,i,m,w	42 i,m	9.3 i,m	n	n
5a. Chromium (III)	16065831	550 e,i,m,o	180 e,i,m,o			n	n
5b. Chromium (VI) <sup>b</sup>	18540299	16 i,m,w	11 i,m,w	1100 i,m	50 i,m	n	n
6. Copper <sup>b</sup>	7440508	13 e,i,m,w,x	9.0 e,i,m,w	4.8 i,m	3.1 i,m	1300	
7. Lead <sup>b</sup>	7439921	65 e,i,m	2.5 e,i,m	210 i,m	8.1 i,m	n	n
8. Mercury <sup>b</sup>	7439976	[Reserved]	[Reserved]	[Reserved]	[Reserved]	0.050 a	0.051 a
9. Nickel <sup>b</sup>	7440020	470 e,i,m,w	52 e,i,m,w	74 i,m	8.2 i,m	610 a	4600 a
10. Selenium <sup>b</sup>	7782492	[Reserved] p	5.0 q	290 i,m	71 i,m	n	n
11. Silver <sup>b</sup>	7440224	3.4 e,i,m		1.9 i,m			
12. Thallium	7440280					1.7 a,s	6.3 a,t
13. Zinc <sup>b</sup>	7440666	120 e,i,m,w,x	120 e,i,m,w	90 i,m	81 i,m		